



**COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT**

**Tentative Notice of Action**

*Promoting the wise use of land  
Helping build great communities*

MEETING DATE July 7, 2006 EFFECTIVE DATE July 21, 2006	CONTACT/PHONE Michael Conger (805) 781-5136	APPLICANT Roldan Gutierrez	FILE NO. DRC2005-00179
<b>SUBJECT</b> Request by Roldan Gutierrez for a Minor Use Permit to modify the 800 square-foot size limitation for a secondary unit. The proposed project would authorize the conversion of an existing garage and storage area into a 1,200 square-foot secondary unit on a 1.3 acre parcel with an existing single family residence. The proposed project is within the Residential Suburban land use category and is located at 561 Camino Caballo (southeast side), approximately 0.62 miles northeast of Pomeroy Road in the community of Nipomo. The site is in the South County planning area.			
<b>RECOMMENDED ACTION</b> Approve Minor Use Permit DRC2005-00179 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
<b>ENVIRONMENTAL DETERMINATION</b> A Class 3 Categorical Exemption was issued on June 6, 2006			
LAND USE CATEGORY Residential Suburban	COMBINING DESIGNATION None	ASSESSOR PARCEL NUMBER 091-328-021	SUPERVISOR DISTRICT(S) 4
<b>PLANNING AREA STANDARDS:</b> None Applicable <i>Does the project meet applicable Planning Area Standards: Yes - see discussion</i>			
<b>LAND USE ORDINANCE STANDARDS:</b> Height Measurement; Minimum Site Area; Residential Density; Setbacks; Secondary Dwellings <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
<b>FINAL ACTION</b> This tentative decision will become final action on the project, effective on the 15 <sup>th</sup> day following the administrative hearing, or on July 21, 2006, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.			
<b>EXISTING USES:</b> Single family residential and accessory uses.			
<b>SURROUNDING LAND USE CATEGORIES AND USES:</b> <i>North:</i> Residential Suburban / single family residential <i>East:</i> Commercial Service / Nipomo Swap Meet <i>South:</i> Commercial Service / Nipomo Swap Meet <i>West:</i> Residential Suburban / single family residential			
<b>OTHER AGENCY / ADVISORY GROUP INVOLVEMENT:</b> The project was referred to: South County Advisory Council, Public Works, Nipomo Community Services District, Cal Trans, Regional Water Quality Control Board			
<b>TOPOGRAPHY:</b> Level to gently sloping		<b>VEGETATION:</b> Ornamentals	
<b>PROPOSED SERVICES:</b> Water supply: Community System (NCSD) Sewage Disposal: Individual septic system Fire Protection: CDF/County Fire		<b>ACCEPTANCE DATE:</b> June 5, 2006	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

## DISCUSSION

### PROJECT HISTORY

Code Enforcement case COD2005-00362 was opened in February 2006 to address violations pertaining to the conversion of an existing garage to a secondary residential unit. The function of this Minor Use Permit is to provide land use authorization for the conversion of the existing garage and workshop into a 1,158 square-foot secondary unit, to be located approximately six feet from the primary dwelling.

### LAND USE ORDINANCE COMPLIANCE

*Permitted Use, Residential Density* – Secondary Dwellings are an allowable use in the Residential Suburban (RS) land use category, subject to the special use conditions described in the “Secondary Dwellings” section of this report.

*Property Development Standards* – The following table summarizes the applicable general property development and operating standards described in Chapter 10 of the Land Use Ordinance:

Standards	Description	Required	Proposed	Status
Height	Residential Suburban	35 feet	14 feet	Meets Standard
Site Area	Single Family Residential (On-site Well, Septic)	1 net acre	≈ 1.3 net acres	Meets Standard
Front	Standard Requirement	25 feet	100+ feet	Meets Standard
Rear	sites 1 acre or more	30 feet	170+ feet	Meets Standard
Side	sites 1 acre or more	30 feet	57 feet (east) 18 feet (west)	Modification Required
Interior	Accessory Building	6 feet	6 feet	Meets Standard

In addition to the proposed secondary dwelling encroaching within the west side setback, the existing primary dwelling encroaches within the required easterly side setback. The applicant has requested adjustment of the side setback standards, in accordance with Section 22.10.140(E)(1)(a) of the Land Use Ordinance. CDF/County Fire has reviewed and approved the adjustment request, subject to the inclusion of the following fire suppression measures: inclusion of fire resistive siding and a Class A roof. As proposed and conditioned, the project meets the property development standards of the Land Use Ordinance.

*Secondary Dwellings* – The following standards apply to secondary residential dwellings:

Accessory Unit Only – A secondary unit shall be accessory to a primary dwelling and shall not be established on a site containing a guesthouse or more than one dwelling unit. The project site contains one primary unit. The proposed Minor Use Permit will authorize the conversion of the existing garage into a secondary unit. As proposed and conditioned, the project meets this standard.

Restricted Occupancy – The owner of the site shall agree to occupy one unit on the site as his or her primary residence. Prior to final building inspection, the applicant shall record a notice against the property notifying any subsequent purchaser of this requirement. As proposed and conditioned, the project meets this standard.

Limitation on Location – The proposed secondary dwelling unit is located in the Nipomo urban area, which is not a specified area where secondary dwellings are prohibited.

Minimum Access – The project site has frontage on an offered road<sup>1</sup>, Camino Caballo, which is paved with chip-seal or better at a width of 18 feet or greater.

Minimum Site Area – The minimum site area for parcels served by community water and sewage disposal systems is 1 gross acre. The proposed project site is approximately 1.3 acres.

Maximum Floor Area – The maximum floor area for sites under 2 net acres served by community water and on-site sewage disposal systems is 800 square feet. The applicant has requested a waiver of this standard to allow a secondary unit of 1,200 square feet. The request is discussed in more detail in the “Size Waiver Request” section of this report.

Maximum Distance – The Land Use Ordinance limits the distance between the primary and secondary units to 50 feet for sites under 2 net acres served by community water and on-site sewage disposal systems. The proposed secondary dwelling is approximately 6 feet from the primary dwelling.

Design – The secondary unit shall use the same design style as the primary unit. As proposed, the project meets this standard.

Parking – One additional off-street parking space shall be provided. The project site has sufficient area off-street parking to accommodate this requirement.

#### STAFF COMMENTS:

##### *Size Waiver Request*

The applicant has requested that the size restriction for the secondary unit be waived to allow a unit of 1,200 square feet. The additional 400 square feet would be located within the existing garage structure, and would not necessitate any additional ground disturbance.

#### POLICY ISSUES:

Staff has historically viewed secondary dwellings as a means to provide lower-cost housing for family members or as rental units. When considering size waiver requests, staff conducts a site visit to evaluate any obvious environmental concerns with regard to vegetation removal and drainage. The proposed project will be located in an existing building on the site. Granting of the size waiver will result in less ground disturbance than would be required with a new secondary unit meeting the size limitations. With regard to drainage, this project was referred to Public Works for review. They did not indicate any significant concerns.

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<sup>1</sup> The portion of Camino Caballo fronting the property was offered as part of Parcel Map CO75-169 (18/PM/72). County Public Works confirmed that this portion of the road has not been accepted into the County-maintained road system.

COMMUNITY ADVISORY GROUP COMMENTS:

This project was reviewed at South County Advisory Committee's (SCAC) meeting on April 24, 2006. The project was unanimously denied noting that it is not in compliance with the secondary unit ordinance standards.

*Staff Response:* As discussed above, the project is in compliance with all standards of the Land Use Ordinance except the floor area limitation. The purpose of this Minor Use Permit is to waive the floor area limitation up to 1,200 square feet. Staff has visited the project site and has concluded that the request for a size waiver is supportable. Because the second unit will result from the conversion of an existing structure, no additional ground disturbance will be necessitated.

AGENCY REVIEW:

Public Works – Improve Camino Caballo so that it is all wather surface with chip seal or better (18' width) from project site to the nearest County-maintained road.

*Staff Response:* Camino Caballo is currently paved at a width of 18 feet or greater from the project site back to the County-maintained portion of Camino Caballo, and therefore meets this request.

Environmental Health – As of June 14, 2006, no response has been received.

Ag Commissioner – No comment.

CDF – Reviewed setback request; recommends that the reduced setback shall require fire resistive siding and a Class A roof.

Nipomo Community Services District – As of June 14, 2006, no response has been received.

Cal Trans – As of June 14, 2006, no response has been received.

RWQCB – As of June 14, 2006, no response has been received.

LEGAL LOT STATUS:

The one existing lot was legally created by a recorded map (CO75-169), recorded in Book 18, Page 72 of Parcel Maps.

## EXHIBIT A - FINDINGS

### *CEQA Exemption*

- A. The project qualifies for a Categorical Exemption (Class 1) pursuant to CEQA Guidelines Section 15301 because the project involves minor interior and exterior alterations to an existing structure.

### *Minor Use Permit*

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the secondary dwelling unit does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the secondary dwelling unit is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Camino Caballo, a local road constructed to a level able to handle any additional traffic associated with the project.

### *Secondary Dwelling Adjustments*

- G. Modification of the maximum floor area for secondary dwellings from 800 square feet to allow a secondary dwelling of 1,200 square feet is justified because there are specific conditions of the site that make the standard unnecessary. These conditions exist because the proposed secondary dwelling will occur in an existing structure, and modification of this standard will not necessitate additional site disturbance.

## **EXHIBIT B - CONDITIONS OF APPROVAL**

### **Approved Development**

1. This approval authorizes
  - a. Modification of the 800 square-foot size limitation for a secondary unit, and conversion of an existing garage and storage area into a 1,200 square-foot secondary unit on a 1.3 acre parcel with an existing single family residence.
  - b. A maximum height of 15 feet from average natural grade.
  - c. Adjustment of the western side setback to 18 feet for the proposed secondary dwelling unit.

### **Conditions required to be completed at the time of application for construction permits**

#### ***Site Development***

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.

#### ***Fire Safety***

3. **At the time of application for construction permits**, the applicant shall provide a Fire Safety Plan prepared by CDF/County Fire. The fire safety plan should include any necessary fire safety measures required for the side setback adjustments pursuant to Sections 22.10.140(E)(1)(a) and 22.54.020(F). All plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan.

#### ***Services***

4. **At the time of application for construction permits**, the applicant shall provide a letter from Nipomo Community Services District stating they are willing and able to service the property.
5. **At the time of application for construction permits**, the applicant shall submit evidence that a septic system, adequate to serve the proposal, can be installed on the site.

### **Conditions to be completed prior to issuance of a construction permit**

#### ***Fees***

6. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

***Owner Occupancy Requirement***

7. **Prior to issuance of a construction permit**, the applicant for the second unit shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the second unit to abatement by the county pursuant to Chapter 22.74 of this title. No secondary dwelling shall be allowed on the site unless an owner of the site agrees to occupy one unit on the site as his or her primary residence.

**Conditions to be completed prior to occupancy or final building inspection /establishment of the use**

8. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures, including those measures required to mitigate for reduced setbacks.
9. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

**On-going conditions of approval (valid for the life of the project)**

10. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
11. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.

## PROJECT

**Minor Use Permit**  
**Butierrez DRC2005-00179**

**EXHIBIT**

## Vicinity Map

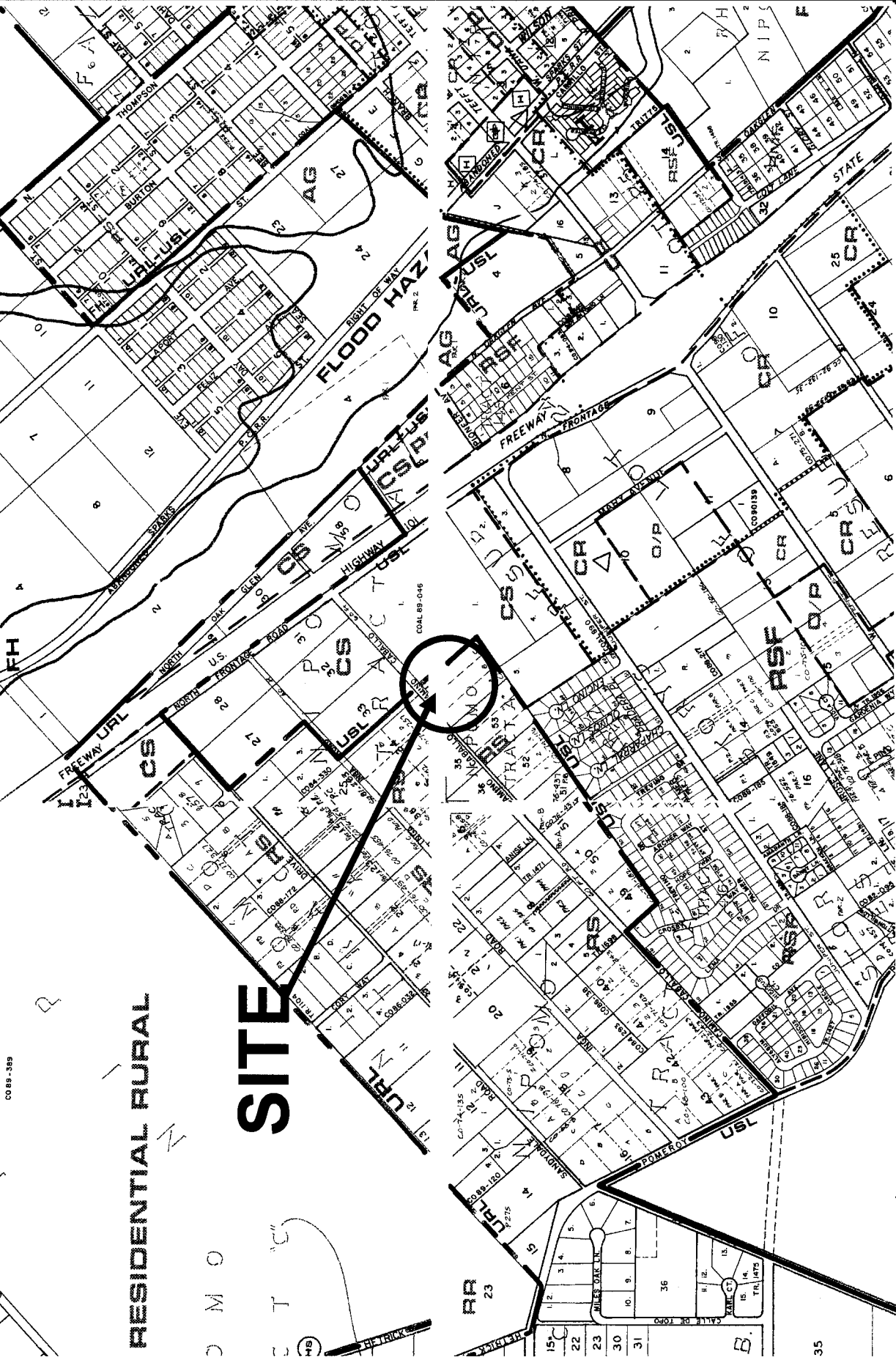




CO 89-389

RESIDENTIAL RURAL

SITE



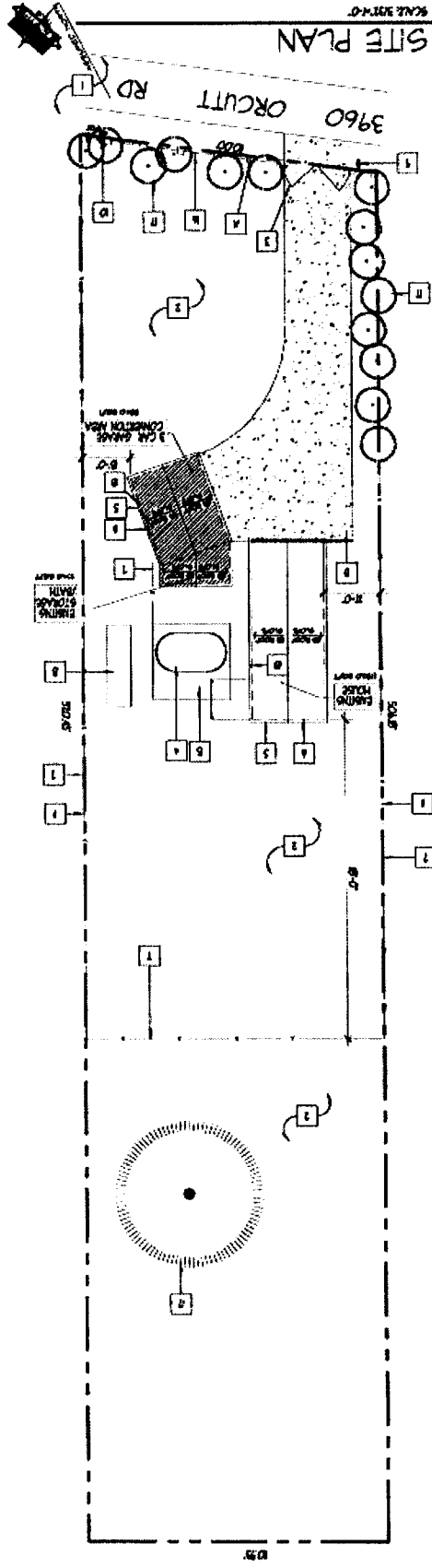
PROJECT

Minor Use Permit  
Butierrez DRC2005-00179

EXHIBIT

Land Use Category





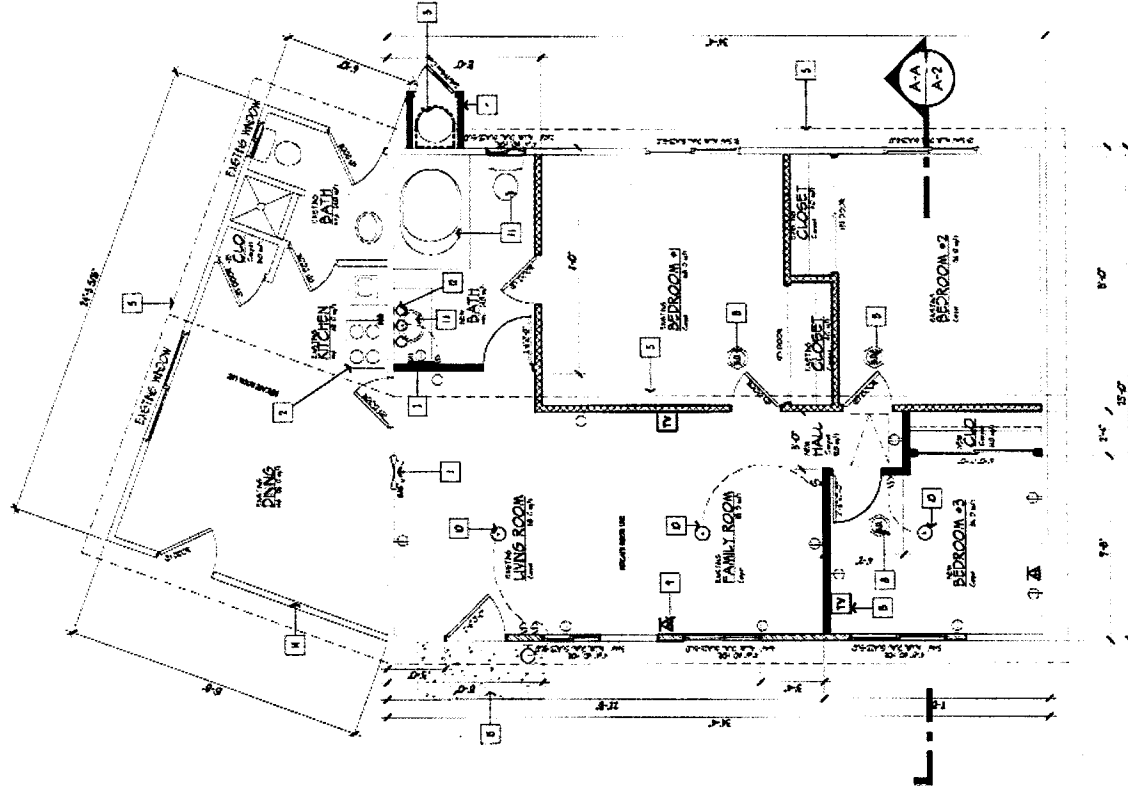
PROJECT

Minor Use Permit  
Butierrez DRC2005-00179

EXHIBIT

Site Plan





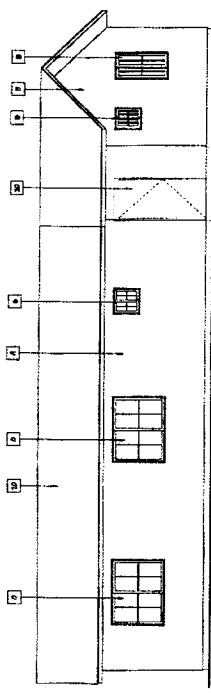
PROJECT

Minor Use Permit  
Butierrez DRC2005-00179

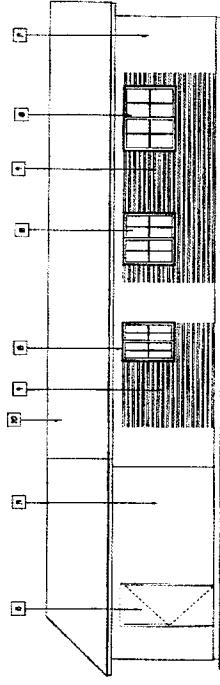
EXHIBIT

Floor Plan

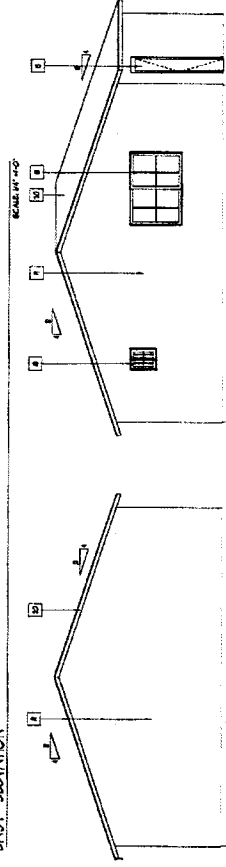




WEST ELEVATION



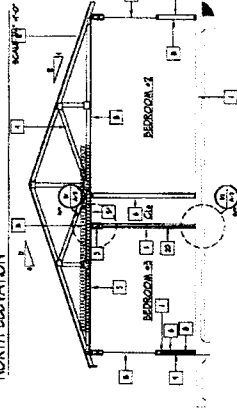
EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



SECTION A-A

SCALE 3/4" = 1'-0"

L

PROJECT

Minor Use Permit  
Butierrez DRC2005-00179

EXHIBIT

Elevations





**SITE**

**PROJECT**

Minor Use Permit  
Butierrez DRC2005-00179

**EXHIBIT**

Aerial



# PROJECT REFERRAL COMMUNITY ADVISORY COUNCIL

Date Referred: \_\_\_\_\_

Project Planner/Manager: Conger

The attached application was recently filed with the Planning Department for review and approval. Because the proposal may be of interest or concern to your community group, we are enclosing a copy of the project application and plan for your preliminary review and comment. Please comment on all issues that you see may be associated with this project.

You may want to contact the applicant and/or agent for the project to request a presentation to your group, or simply to answer questions about the project. The telephone number and address for the applicant / agent are provided on the application form that is attached.

## PROJECT INFORMATION

File Number: DRC2005-00179 Applicant: Gutierrez

Request: \_\_\_\_\_

STAFF COMMENTS: \_\_\_\_\_

**C.A.C. COMMENTS** The attached checklist is to help you with your review. ***You may choose to complete the checklist as your only response to this referral.***

- ☐ We have received the referral on the above-referenced project and have no comments.  
☒ We have received the referral and have the following comments:

Recommend denial because size of secondary  
unit exceeds LVO requirements

Please let us know the following:

- ☒ Yes ☐ No Does your community group want to receive notice of the public hearing for the project?  
☒ Yes ☐ No Does your community group want a copy of the staff report when the project goes to public hearing?  
☒ Yes ☐ No Does your community group want to receive notice of the final action for the project?

Date Referral Action Taken By Community Advisory Council: 4-24-06

Cl Eg

**SEE REVERSE**



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP  
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 3-28-06

From TO: PW

To FROM: ☒ - South County Team ☐ - North County Team ☐ - Coastal Team

MUP

PROJECT DESCRIPTION: File Number: DRC2005-00179 Applicant: Gutierrez  
MUP to modify secondary dwelling. Located off Camino  
Caballo in Nipomo on 1/2 acres. APN: 091-328-021

Return this letter with your comments attached no later than: 4-12-06

PART I - IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

- ☐ YES (Please go on to PART II.)  
☒ NO (Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II - ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

- ☐ YES (Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)  
☐ NO (Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

Improve Camino Caballo so that it is all weather surface with Chip Seal  
or better (18' width) from project site to nearest County maintained road.  
Per LVD 22.30.470, Section C part 2.

4-5-06  
Date

Nola Engelskirger  
Name

700-2100  
Phone



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP  
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 3-28-06

FROM: AG DEPT

TO: ✓

FROM: ☒ - South County Team ☐ - North County Team ☐ - Coastal Team

MUP

PROJECT DESCRIPTION: File Number: DRC2005-00179 Applicant: Cutierrez  
MUP to modify secondary dwelling. Located off Camino  
Caballo in Nipomo on 1 1/2 acres. APN: 091-328-021

Return this letter with your comments attached no later than: 4-12-06

PART 1 - IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

☒ YES  
☐ NO

(Please go on to PART II.)

(Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II - ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☐ YES

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)

☒ NO

(Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

NO COMMENT

3/28/06  
Date

L. AUCHINCLOSS  
Name

781-5914  
Phone



**San Luis Obispo County**  
**Department of Planning and Building**

County Government Center, San Luis Obispo, CA 93408 (805) 781-5600

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The changes to the condition have been submitted for processing. It may not appear immediately in the case information.

[Case Summary](#)   [Manage Projects](#)   [Manage Activities](#)   [Manage Conditions](#)   [Manage Fees](#)   [Manage Valuations](#)

## Manage Conditions for DRC2005-00179

<b>Title</b>	<b>Tag</b>	<b>Status</b>	<b>Shortcuts</b>
<b>Fire Plan Review C</b>	<i>None</i>	Unmet <b>Sign Off</b>	<a href="#">Delete</a>

Reduced setback of 6' shall require fire resistive siding and a Class A roof, LLBrown/CDF 5-10-06.

### Add a Condition

<b>Condition</b>	<b>Met</b>	
<div style="border: 1px solid black; padding: 2px;">Access Deed Verify ▼</div>	<input type="checkbox"/>	<div style="display: inline-block; border: 1px solid black; padding: 2px 10px;">Quick Add</div> <div style="display: inline-block; border: 1px solid black; padding: 2px 10px;">Add</div>

[Help](#)

[Top of Page](#)

- If there are conditions associated with this case type, you can quickly add conditions to this case using the form above.
- To add a condition, select the condition from the combo box and click the **Quick Add** button. Check the check box if this condition has been met.
- There is no **Add** button, as all the relevant information is collected in the form above.
- To go back to a previous page, click the Back button on your browser.
- To switch to a different page, click the navigation button at the top of this page.



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